

### **REMARKS**

This responds to the Office Action mailed on June 28, 2007.

Claims 25, 36 and 48 are amended. Claim 49 is added. Claims 25-49 are now pending in this application.

#### **§102 Rejection of the Claims**

Claims 25-47 were rejected under 35 U.S.C. § 102(b) as being anticipated by Xu et al. (U.S. Patent No. 5,563,902). This rejection is respectfully traversed. The claims have been amended to recite that the optical resonator is formed of silicon. This amendment is consistent with the previous amendment regarding a non-active intrinsic portion of the junction. In other words, light is not actively generated in silicon. Xu et al., only describes embodiments formed of Al, Ga and As, not silicon. Since the functions performed by the layers is quite different, this is not merely the substitution of materials, but a very different structure. Allowance of the claims is respectfully requested.

#### **§103 Rejection of the Claims**

Claim 48 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Xu et al. (U.S. Patent No. 5,563,902). This rejection is respectfully traversed, as amended claim 48 also recites a resonator that modulates light from an external source, and Xu et al., does not describe such a device.

New claim 49 is believed to distinguish from Xu et al., at least for the same reasons as claim 48. It also recites that the optical resonant cavity receives light from an external source. This further clarifies the non-active nature of the device.

### **Reservation of Rights**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with

this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6972 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

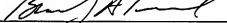
Respectfully submitted,

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Date 9-27-2007

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 27th day of September 2007.



Name



Signature